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14 *Cade Herring, Stephen Mollet, Nevada Department*
15 *of Corrections, and State of Nevada*

16 KEVIN FERNANDEZ,
17 Plaintiff,
18 vs.
19 S. MOLLET, et al.,
20 Defendant.

21 Case No. 3:16-cv-00366-MMD-WGC

22 **ORDER GRANTING
DEFENDANTS' MOTION FOR
ENLARGEMENT OF TIME TO SUBMIT
PROPOSED ORDER REGARDING
COPYWORK EXTENSION**

23 Defendants, Ronald Bryant, Christopher Hayman, Cade Herring, Stephen Mollet, Nevada
24 Department of Corrections, and State of Nevada by and through counsel, Adam Paul Laxalt, Attorney
25 General of the State of Nevada, and Benjamin R. Johnson, Deputy Attorney General, hereby move this
26 Court for an enlargement of time to submit the Proposed Order Regarding Copywork Extension. This
27 Motion is based on the following Memorandum of Points and Authorities and all papers and pleadings
28 on file herein.

29 **MEMORANDUM OF POINTS AND AUTHORITIES**

30 **I. INTRODUCTION AND RELEVANT PROCEDURAL HISTORY**

31 Counsel for Defendants, Nevada Department of Corrections (NDOC) Deputy Director John
32 Borrowman and New Hampshire Department of Corrections (NHDOC) Deputy Director Gary Arceci have
33 conferred regarding the protocol for processing an increase in Plaintiff Kevin Fernandez's copywork. The
34 proposed order regarding the extension is due July 9, 2018. However, counsel for Defendants was not able

1 to schedule a telephone conference with Plaintiff until Thursday July 12, 2018, to discuss the protocol.
2 Additionally, Plaintiff is set to appear before Magistrate Judge Valerie Cooke and representatives from the
3 NDOC and Attorney General's Office for a global settlement conference on July 10, 2018. The global
4 settlement conference includes potential settlement of this case. If the parties are able to reach a global
5 settlement with Plaintiff then the copywork issue may become moot as all of Plaintiff's current cases
6 would be settled.

7 Therefore, counsel respectfully requests an enlargement of time of four days, up to and including
8 July 13, 2018, to submit the proposed order regarding Plaintiff's copywork extension. This extension will
9 allow the parties to engage in the settlement conference and if the case does not settle, counsel will be able
10 to meet and confer telephonically with Plaintiff regarding the protocol and then submit it to the court.

11 **II. ARGUMENT**

12 FED. R. CIV. P. 6(b)(1) governs enlargements of time and provides as follows:

13 When an act may or must be done within a specified time, the court may,
14 for good cause, extend the time: (A) with or without motion or notice if
15 the court acts, or if a request is made, before the original time or its
extension expires; or (B) on motion made after the time has expired if the
party failed to act because of excusable neglect.

16 The proper procedure, when additional time for any purpose is needed, is to present a request
17 for extension of time before the time fixed has expired. *Canup v. Mississippi Val. Barge Line Co.*, 31
18 F.R.D. 282 (W.D. Pa. 1962). Extensions of time may always be asked for, and usually are granted on a
19 showing of good cause if timely made under subdivision (b)(1) of the Rule. *Creedon v. Taubman*, 8
20 F.R.D. 268 (N.D. Ohio 1947).

21 Counsel seeks an enlargement of time to submit the proposed order regarding Plaintiff's
22 copywork extension. This enlargement of time is not made for the purposes of delay or to prejudice
23 Plaintiff. Defendants have drafted a protocol and have conferred with NHDOC officials. Additional
24 time is needed to confer with Plaintiff regarding the protocol before submitting it to the court. For these
25 reasons, Defendants request an enlargement of time of four days to serve the responses and/or
26 objections.

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1 **III. CONCLUSION**

2 Based on the foregoing, Defendants respectfully request that this motion for enlargement of
3 time to submit the proposed order be granted until July 13, 2018.

4 DATED this 9th day of July, 2018.

5 ADAM PAUL LAXALT
6 Attorney General

7 By: 

8 BENJAMIN R. JOHNSON
9 Deputy Attorney General
10 State of Nevada
11 Bureau of Litigation
12 Public Safety Division

13 *Attorneys for Defendants*

14 **IT IS SO ORDERED:**

15 
16 **U.S. MAGISTRATE JUDGE**

17 **DATED:** July 10, 2018